

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

COMMISSIONER OF
EDUCATION

.....

Student N. Doe.

v.

Bristol-Warren School Department

.....

INTERIM ORDER
DECISION

HELD: The request for an
Interim Order is denied and
dismissed.

DATE: May 27, 2009

IN RE: Long-Term Suspension of Student Doe

Travel of the Case and Jurisdiction

The student in this matter committed an infraction of his school's disciplinary code by transferring a controlled substance to another student on February 13, 2009. At a March 12, 2009 hearing before the school committee (which by the agreement of the parties was held in an informal manner) the student was transferred to an alternative program for the rest of the school year. It was provided, however, that if the student complied with certain disciplinary requirements he would be allowed to return to his regular high school program on May 5, 2009. This return would carry with it the opportunity for him to attend the senior prom and to attend graduation ceremonies. The parent of the student was informed of his right to appeal this decision to the Commissioner.¹ No immediate appeal was filed.

The student did not comply with the applicable disciplinary requirements. The student, through his parent, now seeks to mitigate the penalty in this matter to the extent of allowing the student to go to the prom and to attend graduation ceremonies. Jurisdiction is present under R.I.G.L.16-39-1, R.I.G.L.16-39-2, and R.I.G.L.16-39-3.2. The parent is requesting an interim protective order that would allow his son to attend the senior prom and to attend graduation ceremonies.

Positions of the Parties

The School Committee

The school committee submits that it gave this student a second chance to comply with school rules and thereby to avoid the full force of the sanction the school committee had imposed in this matter. The student did not comply with school rules and therefore the previously imposed discipline should remain in effect.

The Parent

The parent agrees that the student failed to strictly comply with all school rules in the alternative placement the student was assigned to. The parent emphasizes however that this noncompliance involved four instances of tardiness. The parent argues that this noncompliance should not be allowed to have the effect of preventing his son from attending the senior prom and graduation exercises.

Findings of Fact

1. This 17 year old senior student takes prescription medication to control his ADHD. On February 13, 2009 he was taking his medication at school when another student saw what he was doing, and asked if he could have one of the tablets. The student obliged, and handed one of the tablets to the other student. A

¹ Decision of the School Committee, March 17, 2009.

- teacher noticed this activity, appropriate inquiries were made, and the matter was forwarded to school administrators for disciplinary action.²
2. An immediate 10 day suspension was imposed, and the matter was moved up the chain of command for a determination of whether or not a long term suspension should be imposed for this misconduct, as is specified in the applicable student handbook.³ The student already had one prior recent infraction of the school's substance abuse policy on his record.⁴
 3. A hearing school committee hearing was held on March 12, 2009 As a result of this hearing the student was assigned to an off grounds alternative education program for the remainder of the school year. The assignment to the alternative education program brought with it an automatic "social suspension" which barred the student not only from the senior prom, but also from graduation ceremonies.⁵
 4. The school committee opted to mitigate the full force of this sanction by specifying that the student would be allowed back into his regular school programming on May 5, 2009 if the student, while attending the alternative placement, (1) attended school regularly and reported on time every day, (2) completed his course work and met graduation by proficiency standards, (3) completed all other graduation requirements, and complied with the school code of conduct "without any infractions whatsoever.)⁶
 5. It was clearly understood by all parties that if the student complied with these terms he, "would be allowed back to high school and he would be allowed to participate in the extracurricular activities, or whatever it was. If anything happens at the [alternative placement] that offer is off the table and he's at the [alternative placement] for the remainder of the school year and the social suspension carries throughout the school year."⁷ (Emphasis added)
 6. The record before us establishes that the student was significantly tardy four times while attending the alternative placement. The school district has therefore found that the student was in breach of the conditions it imposed as prerequisites to the student being allowed to return to his regular school, attend the prom, and attend graduation ceremonies.

² School Committee Transcript of March 12, 2009, page 11.

³ Exhibit 4 in School Committee Transcript of March 12, 2009

⁴ Decision of the School Committee, March 17, 2009.

⁵ Decision of the School Committee, March 17, 2009.

⁶ Decision of the School Committee, March 17, 2009.

⁷ Transcript of March 12, 2009 at page 34 and 35.

The Commissioner hears appeals from long-term suspensions on a *de novo* basis.⁸ That is to say, the Commissioner completely rehears the case. The Commissioner may affirm or reverse a school suspension, or may alter its duration or effect.⁹

Discussion

This student has two drug related infractions on his school disciplinary record. After his second infraction the school committee gave him an additional, albeit narrow, chance to demonstrate that he was prepared to strictly comply with school rules. The student was not able to complete this task in that he was late to school four times. The school district has therefore decided that the school committee's previous decision to assign this student to an alternative program for the rest of the school year and to deny him the opportunity to attend the senior prom and graduation must stand.

It is our independent decision that this penalty is appropriate given that violations of the school district's substance abuse rules are established by the record in this matter, along with the student's non-compliance with school rules at his alternative educational placement. We recognize that this student now seems to be coming aware of the difficulties he may expect to encounter if he does not more closely control his behavior. We also recognize the forthright and direct way the parent has attempted to deal with this situation while providing full and able support to his son. The difficulty in this case is that involves violations of school rules relating to the misuse of drugs. We cannot say here that the penalty imposed is disproportionate to the violations at issue.

Conclusion

The request for an interim order is denied and dismissed.

Forrest L. Avila, Hearing Officer

APPROVED:

Peter McWalters, Commissioner

Date

⁸ *Parents of a Suspended Student v. School Committee of Bristol*, Commissioner of Education, February 1, 1983

⁹ *John B.L Doe*, Commissioner of Education, June 1995. *Doe v. South Kingstown School Committee*, Commissioner of Education